

Amendments to the Drawings:

The attached replacement and annotated sheet(s) of drawings includes changes to FIG. 1 as follows.

FIG. 1 has been amended to include the wording "Prior Art"

Attachment: Replacement Sheet
Annotated Sheet Showing Changes

REMARKS/ARGUMENTS

The Office Action mailed July 8, 2004 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

The specification and abstract have been amended to correct minor editorial matters. No new matter has been added.

The 35 U.S.C. § 102 Rejection

Claims 1, 2, and 8-11 stand rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by Bruce's custom covers (Bruce) in view of King Bag and Manufacturing company (King). Claim 1 in an independent claim. This rejection is respectfully traversed.

The Office Action states:

“Bruce disclose[s] a production device for an air intake structure of a jet engine, having a tarp with a main portion designed to close off the fan case ducting, a secondary portion fixed to the main portion (see #1 Bruce), designed to partially cover the intake cowl of the engine (see Figure 1). Bruce does not disclose a stiffening means. King, however, discloses that it is well known in the art to design covers that are reinforced for added protection of the engine (see Page 1, paragraph 2). It would have been obvious at the time of the invention to one having ordinary skill in the art to include the teaching of King into the device of Bruce for the reasoning of increasing reliability and sturdiness.”

It is presumed that the Examiner meant to state the rejection under 35 U.S.C. §103 as an obvious combination rejection since it is clear that an anticipation rejection under 35 U.S.C. § 102(a)¹ can only be based upon a single prior art reference which much teach all the claimed elements.

¹ According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a **single prior art reference**.

Furthermore, the Examiner does not clearly set forth which Bruce's custom covers prior art reference is referred to. Thus, it is presumed that the Examiner is referring to the Bruce's Custom Covers Technical Sheet (for Boeing KC-135, C-135, RC-135, EC-135) prior art reference.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.²

Claim 1 provides for a:

“protective tarpaulin also comprises a secondary portion fixed to the main portion, said secondary portion being provided with stiffening means and designed to partially cover the air intake cowl of the engine, to close off each ventilation scoop.”

Bruce merely discloses an attachment “to the bypass vent with six large vinyl-coated metal hooks.” Bruce does not show nor disclose “a secondary portion fixed to the main portion ... designed to partially cover the air intake cowl of the engine, to close off each ventilation scoop” as claimed in Claim 1. The figure does not illustrate the closing of the ventilation scoop, which is located at the top portion of the cowl. Rather, the figure merely illustrates the use of metal hooks to enable to attachment of the cover to the engine with the straps, as described in Bruce, page 1.

Manual of Patent Examining Procedure (MPEP) § 2131 (emphasis added). See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

King merely discloses reinforced storage or shipping covers notably to “protect against varied weather conditions”. The Examiner provides no motivation for combining the prior art references and no motivation can be ascertained from the prior art references to combine intake covers with storage or shipping covers. Furthermore, Claim 1 provides for a “stiffening means” and not a “reinforcing” means to keep the secondary portion in a predetermined shape to match the part of the top portion of the air intake cowl on which the ventilation scoop is located.

Accordingly, since there is no suggestion or motivation in the references to modify or combine the prior art references and the prior art references do not teach or suggest all the claim limitations, it can not be said to anticipate the claimed invention. It is respectfully requested that this rejection be withdrawn.

As to dependent Claims 2-11, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

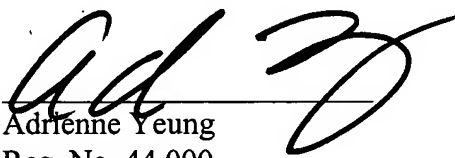
If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP

Dated: October 6, 2004


Adrienne Yeung
Reg. No. 44,000

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040



ROBERT E. KREBS, THELEN REID & PRIEST LLP
SERIAL NO.: 10/783,626
FILED: FEBRUARY 20, 2004
TRP DOCKET NO.: 034299-568
ANNOTATED SHEET

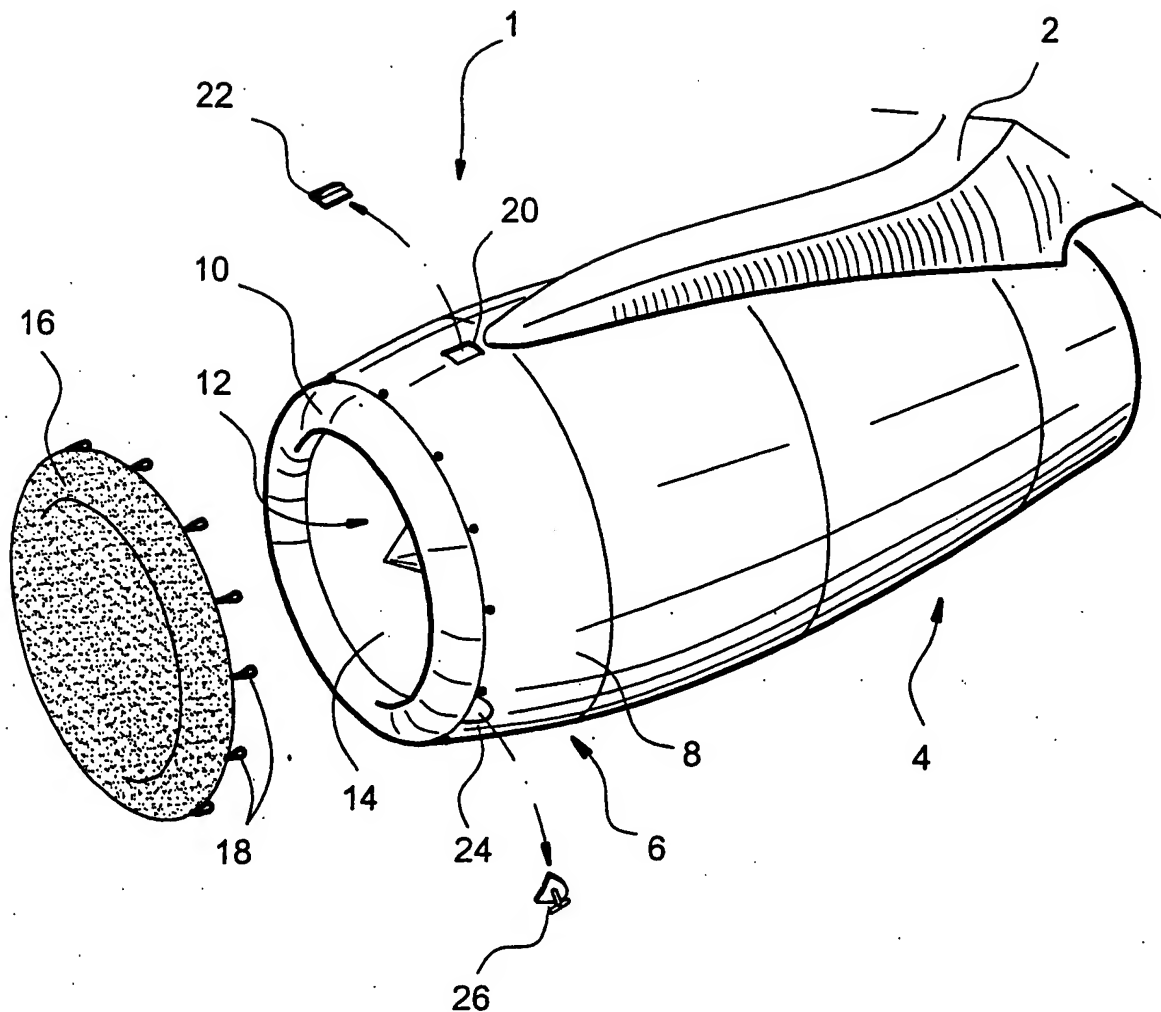


FIG. 1
(PRIOR ART)